IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

WEDNESDAY, THE 27TH JUNE 2007 / 6TH ASHADHA 1929

Crl.Rev.Pet.No. 1001 of 1999()

CRA.151/1993 of SESSIONS COURT, MANJERI
CC.131/1990 of CHIEF JUDICIAL MAGISTRATE COURT, MANJERI
DT.29.10.1993.

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REVN. PETITIONER: APPELLANT/ ACCUSED

KEERI ADAM, S/O.KUNHALAN,
EDAVANNA AMSOM DESOM,
MALAPPURAM DISTRICT.

BY ADV. SRI.K.M.SATHYANATHA MENON

RESPONDENTS: RESPONDENTS/ COMPLAINANTS
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1. **THE CIRCLE INSPECTOR OF POLICE,**
   MANJERI.

2. **STATE OF KERALA REP.BY**
   THE PUBLIC PROSECUTOR,
   HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR, SRI.C.K.SURESH

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 27/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.R.UDAYABHANU, J.

CRL.R.P. NO.1001 OF 1999

Dated 27th June 2007.

ORDER

The revision petitioner stands convicted for the offences under sections 279, 337, 338 and 304(A) IPC and sentenced to undergo rigorous imprisonment for one year and to pay a fine of Rs.3000/- and in default to undergo simple imprisonment for 3 months for the offence under section 304 (A) IPC ; to undergo simple imprisonment for three months and to pay a fine of Rs.1000/- for the offence under section 279 IPC and in default to undergo simple imprisonment for one month; to undergo simple imprisonment for three months and to pay a fine of Rs.1000/- for the offence under section 338 IPC and in default to undergo simple imprisonment fort one month. No separate sentence was awarded for the offence under section 337 IPC.

2. The prosecution case is that on 27-9-1989 at about 5.30 p.m., the accused drove Stage carriage bus KLL.9182 in a rash and negligent manner so as to endanger human life from Malappuram – Manjeri through the public road and when it reached Eeramudukku in Anakkayam Panchayat, the accused tried to overtake two other buses plying in front of his bus and in that attempt hit on the Stage carriage bus KRF.3236 that was coming from

opposite direction and as result of the accident, one Thankam who was sitting in the front seat of the bus driven by the accused was thrown out. CWs 2 to 12 sustained grievous injuries. Subsequently Thankam died on account of the injury sustained in the accident.

3. The evidence adduced in the matter consisted of the testimony of PWs 1 to 22; Exts.P1 to P65 and M.O-1 series.

4. The direct witnesses to the incident are PWs 7 and 8. The rest of the occurrence witnesses i.e. PWs 1 to 6 did not support the prosecution as they deposed that they could not recollect the reason for the accident. PW-7, the daughter of the deceased; PW-8, driver of the bus that was coming from the opposite direction i.e. KRF.3236, and PW-9 passenger of the other bus have testified with respect to the incident. They have deposed that the accident was occasioned on account of the over speed and indiscretion on the part of the accused. No contradictions have been brought out in the cross examination of the above witnesses with regard to their previous statements. The evidence of PW-19 Circle Inspector/Investigating officer is to the effect that the bus driven by the accused was proceeding towards eastern direction and the other bus was coming

from the opposite direction. Ext.P61 scene mahazar would show that the bus driven by the accused was lying on the southern side of the road which was having a width of 8.25 metres of the tarred portion. Evidently, the bus driven by the accused was totally on the wrong side. The evidence of the AMVI, i.e., PW-22 supported by the report of the inspection of the vehicle i.e. Ext.P65 would show that there was no mechanical defect to the vehicle driven by the accused. The same is the case of the vehicle driven by the driver of the bus that came from the opposite direction which is evident from Ext.P64 inspection report of the vehicle. It is seen that apart from the death of one lady, a number of passengers of the bus sustained grievous injuries. PWs 10 to 18 are the doctors who issued wound certificates and autopsy conducted on the deceased. In the circumstances and in the light of the concurrent findings of the court below, I find no reason to interfere in the findings of guilt of the accused. The conviction is confirmed.

Counsel for the revision petitioner pleaded for leniency pointing out that the incident has taken place in 1989 and that about 18 years have elapsed since the commencement of the proceedings. It is

submitted that so far the revision petitioner/accused has been facing criminal proceedings. In the circumstances, I find that the sentence is liable to be modified. Considering the long delay in the matter, I find that the imprisonment has to be avoided. The accused is sentenced to undergo imprisonment till the rising of the court and to pay compensation of Rs.25,000/- to the L.Rs of the deceased Thankam for the offence under section 304(A) IPC. No separate sentence is awarded for the rest of the offences. The revision petitioner is granted 3 months' time from today onwards to pay the amount of compensation to the L.Rs of the deceased. The revision petitioner shall appear before the CJM, Manjeri on 28-9-2007 to receive the sentence.

The Crl.R.P. is disposed of accordingly.

K.R.UDAYABHANU,

JUDGE.

Kvm/-

K.R.UDAYABHANU, J.

CRL.R.P.1001 OF 1999

ORDER

27-6-2007.